THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 4798 of 2006

Dated: 13-07-2006

Between:

A.Naveen Kumar

..... PETITIONER

AND

Regional Transport Authority,
Rep., by Commissioner, Tirumelgerry and another.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 4798 of 2006

O R D E R:

The petitioner herein claims to be the owner of a Toyota Qualis vehicle bearing No. AP10V 1190 registered with the first respondent. It is sated that on 26-04-2005, the vehicle was stolen along with original registration certification and fitness certificate. Immediately, the petitioner lodged a complaint with the second respondent-Station House Officer, Uppal, on the basis of which F.I.R.No.268 of 200 was registered on 05-05-2005. Subsequently, the said vehicle was found on 26-05-2005, however, the same was kept in the custody of the second respondent. When the petitioner made a request to release the vehicle, the petitioner was asked to produce the registration certificate. Since the original certificate which was stolen along with the vehicle was not traced, the petitioner approached the first respondent for issuance of a duplicate registration certificate. However, his request was not considered on the ground that the petitioner is liable to clear the tax up to date. Aggrieved by the said action, this writ petition is filed seeking a direction to the first respondent to issue a duplicate certificate of registration and fitness certificate in respect of the vehicle in question.

On behalf of the first respondent, counter affidavit has been filed denying the allegation of the petitioner that the first respondent had refused the request of the petitioner for issuance duplicate registration certificate. It is stated that the petitioner did not make any application for duplicate registration certificate. It is also stated that as a matter of fact it is necessary to produce consent from the Financer in Form

No.26 as well as no objection certificate from the police along with tax up to 31-03- 2006 to obtain duplicate registration certificate.

I have heard the learned counsel for both the parties and perused the material on record.

The learned counsel for the petitioner contended that since admittedly the vehicle was not put to use from 26-04-2005, the petitioner was not bound to pay the tax. The learned counsel while pointing out that the petitioner had informed the first respondent in the second week of May, 2005 itself about the theft of the vehicle in question, contended that the same shall be deemed to be an intimation as provided under Rule 12-A of the A.P. Motor Vehicles Taxation Rules, 1963 (for short 'the Rules') and therefore he is not liable to pay the tax. Rule 12-A runs as under:

> **12-A. Liability for payment of tax in respect of motor vehicles kept for use:-**
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> For the purpose of Section 3 of the Act, a motor vehicle shall be deemed to be kept for use and is liable to tax unless the registered owner or the person having possession or control of the motor vehicle intimates in writing to the licensing officer before the commencement of the quarter for which tax is due that the motor vehicle shall not be used after expiry of the period for which tax has already been paid. The Licensing Officer shall on receipt of the intimation, acknowledge its receipt:
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> Provided that in the case of non-transport vehicles, if the owner of the vehicle fails to submit the stoppage report within the period specified above but subsequently gives an affidavit with full details to the effect that the vehicle was not inexistence or that it was already disposed of to another person and that he is no more in possession of it, or that the tax in respect of the vehicle was paid elsewhere in the same State or in some other State as such he is not liable for payment of tax in the jurisdiction of that Licensing Officer or proves to the satisfaction of the Licensing Officer that the vehicle has not been used, it may be deemed that the vehicle has not been kept for use;
>
> Provided further that nothing in this rule shall apply in respect of vehicle for which life time or lumpsum tax is prescribed;
>
> Provided also that in the case of public carrier vehicle registered and normally kept in any one of the States of Madras, Mysore, Kerala, and Maharashtra and covered by permits to ply in this State without counter-signature under the rules framed under section 68(2)(hh) of the Motor Vehicles Act, 1939 (Central Act 4 of 1939) in pursuance of the special reciprocal agreement entered into between the

States of Andhra Pradesh, Madras, Maharashtra, Mysore and Kerala, the vehicle shall be deemed to have been kept for use till the expiry of their permits irrespective of this rule unless the vehicles are kept under non-use after the prior intimation for a period of whole year in any State or States.

Chapter IV of the Motor Vehicles Act, 1988 (for short 'the Act') provides for registration of the motor vehicles. Under Section 41(14) of the Act, for issuance of duplicate certificate of registration, it is necessary to make an application in the prescribed form containing such particulars and information along with prescribed fee as prescribed by the Central Government.

Nothing has been placed before this Court to show that the petitioner made such an application before the first respondent. On the other hand, the specific case of the first respondent is that the petitioner did not make any application for the duplicate registration certificate.

In the circumstances, without expressing any opinion as to the liability of the petitioner to pay the tax, I deem it appropriate to dispose of the writ petition granting liberty to the petitioner to make an application as required under law within a period of two weeks from the date of receipt of this order, in which event, the first respondent shall consider the same and pass appropriate orders in accordance with law and communicate the same to the petitioner within a period of one week from the date of receipt of petitioner's application. The petitioner is also granted liberty to make a claim under Rule 12-A of the Rules.

Accordingly, the writ petition is disposed of. No costs.

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G. ROHINI, J

Dated: 13-07-2006
Note: Issue C.C. by Monday
B/o
KLP